IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6666 of 1991

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

STATE OF GUJARAT - Petitioner(s)

Versus

DAHYABHAI ICHHUBHAI - Respondent(s)

==========

Appearance :
MR DIPAN DESAI, AGP for Petitioner(s) : 1,
NOTICE SERVED for Respondent(s) : 1,
==========

CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 06/10/2005

ORAL JUDGMENT

1. In this petition under Article 227 of the Constitution of India the petitioner – State of Gujarat

has challenged the legality and validity of the judgment and order passed by the Gujarat Revenue Tribunal dated 7-10-1988 passed in Revision Application No.TEN. BS 203/87.

2. The respondent herein had submitted the form / declaration as required under the provision of the Gujarat Agricultural Lands Ceiling Act, 1960 (hereinafter referred to as “the Act”)and the Mamlatdar and ALT, Choryasi initiated the proceedings being Ceiling Case No.240 of 1981. Accepting the contention raised on behalf of the respondent with regard to one additional unit of his mother Maniben Ichhubhai, the Mamlatdar & ALT (Ceiling), Choryasi granted two units and declared that the declarant is not holding any surplus / excess land under the Act. The order passed by the Mamlatdar & ALT (Ceiling), Choryasi dated 13th November,1986 was taken under suo motu revision by the Deputy Collector (Land Reforms, Surat) being Ceiling Revision case No.299/87 and the Deputy Collector by its order dated 20th June, 1987 held that the mother of the respondent – declarant was not entitled to any additional unit and the declarant is entitled to one unit and therefore declared 9 acres and 39 gunthas of land as excess/surplus land. Being aggrieved by and dissatisfied with the order passed by the Deputy Collector (Land Reforms, Surat) dated 20th

June, 1987 passed in Ceiling Revision case No.299/87, the respondent preferred Revision Application before the Gujarat Revenue Tribunal being Revision Application No.TEN. BS. 203/87 and relying upon its own judgment reported in 1984 GRTLR page 38, the Tribunal allowed the said Revision Application by holding that the mother of the respondent is also entitled to one additional unit and set aside the order passed by the Deputy Collector and restored the order passed by the Mamlatdar & ALT (Ceiling), Choryasi. Being aggrieved by and dissatisfied with the judgment and order passed by the Gujarat Revenue Tribunal dated 7-10-1988 passed in Revision Application No.TEN. BS. 203/87, the petitioner – State of Gujarat has preferred the present Special Civil Application under Article 227 of the Constitution of India.

3. Shri Dipen Desai, learned AGP appearing on behalf of the petitioner – State of Gujarat has submitted that Gujarat Revenue Tribunal materially erred in allowing one unit to the mother of the respondent and accordingly materially erred in allowing the Revision Application filed by the respondent and quashing and setting aside the order passed by the Deputy Collector and restoring the order passed by the Mamlatdar & ALT (Ceiling), Choryasi and therefore, it is requested to allow the

present Special Civil Application.

4. It is required to be noted that the Gujarat Revenue Tribunal while allowing the aforesaid Revision Application and declaring that the mother of the respondent is entitled to one additional unit, has relied upon its own Full Bench judgment reported in 1984 GRTLR page 38 and the very judgment came to be confirmed by the learned Single Judge of this Court in the case of State of Gujarat v Patel Kala Sana & Others in 1994(1) GLR page 448.

5. In that view of the matter and in view of the judgment of the learned Single Judge of this court in the aforesaid case, it cannot be said that the Gujarat Revenue Tribunal has committed any error in granting one unit to the mother of the respondent and allowing the Revision Application and restoring the order passed by the Mamlatdar & ALT (Ceiling), Choryasi.

6. For the reasons as stated above, the petition fails. The judgment and order passed by the Gujarat Revenue Tribunal as well as Mamlatdar & ALT (Ceiling), Choryasi are hereby confirmed. Rule is discharged. However, no order as to costs.

(M.R.SHAH,J)

Shekhar/-